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**OFFICE OF PETITIONS**

In re Application of  
Michael R. Buckmaster et al.  
Application No. 09/916,148  
Filed: July 25, 2001  
Attorney Docket No.: **120073.415D1**

ON PETITION

This is a decision on the petition filed December 5, 2005, under 37 CFR 1.137(b),<sup>1</sup> to revive the above-identified application.

The petition is **GRANTED**.

This application became abandoned for failure to timely reply to the non-Final Office Action mailed April 5, 2005. A shortened statutory period of three months was set for replying to the non-Final Office Action. No extensions of time having been requested, this application became abandoned July 6, 2005. The instant petition and this decision precede the mailing of the Notice of Abandonment.

The record reveals that a three month extension of time was filed with the instant petition, however, pursuant to 37 CFR 1.136, an extension of time must be filed prior to the expiration of the maximum period obtainable for reply to avoid abandonment. Accordingly, since the \$1020.00 extension of time fee submitted with the petition on August 18, 2005, was subsequent to the maximum period obtainable for reply, this fee is unnecessary and

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<sup>1</sup>Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In a nonprovisional application filed on or after June 8, 1995, and abandoned for failure to prosecute, the required reply may also be met by the filing of a request for continued examination in compliance with § 1.114. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof. In an application abandoned for failure to pay the publication fee, the required reply must include payment of the publication fee.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

will be credited to counsel's deposit account no. 50-3534.

This matter is being referred to Technology Center 2123 for appropriate action on the amendment filed December 5, 2005.

Telephone inquiries concerning this matter should be directed to the undersigned Petitions Attorney at (571) 272-3212.



Patricia Faison-Ball  
Senior Petitions Attorney  
Office of Petitions